DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Implementation of the	)	
Local Competition Provisions	)	**CC Docket No. 96-98**
of the Telecommunications Act of 1996	)	
	)	

PETITION OF MCI WORLDCOM, INC. FOR RECONSIDERATION

Of Counsel:

Mark D. Schneider
JENNER & BLOCK
601 13th Street, N.W.
Washington, D.C. 20005
(202) 639-6005

Anthony C. Epstein
STEPTOE & JOHNSON, LLP
1330 Connecticut Ave., NW
Washington, D.C. 20036
(202) 429-8065

Chuck Goldfarb
Richard Whitt
Cristin Flynn
MCI WorldCom, Inc.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 887-2199

Dated: February 17, 2000

EXECUTIVE SUMMARY

MCI WorldCom urges the Commission to reconsider several of its conclusions foreclosing requesting carriers from utilizing incumbent local exchange carrier network capabilities as unbundled network elements pursuant to sections 251(c)(3) and 252(d)(2) of the Telecommunications Act of 1996. MCI WorldCom believes that, overall, the Commission did a commendable job defining the "necessary" and "impair" standards and applying them to individual network elements in a fashion that promotes competition in most telecommunications markets. Unfortunately, the Order contains significant misapplications and errors of law and policy, especially with respect to elements needed for the provision of advanced services.

The Commission should reconsider its decision not to require ILECs to provide unbundled packet switching and DSLAMs except in limited circumstances. The Commission itself expressly found, based on record evidence, that competitive local exchange carriers would be materially impaired in their ability to offer advanced services without access to unbundled packet switching. Moreover, even in reviewing factors outside the impairment analysis, the Commission conceded that the record evidence indicates that market pressures compel the ILECs to invest in DSL facilities, whether or not they must make those facilities available on an unbundled basis to CLECs. Despite those findings, the Commission chose to override its statutory impairment finding with an unsupported and extra-statutory claim of "regulatory restraint." Thus, on both public policy and legal grounds, there is no basis for the Commission's decision not to require ILECs to provide unbundled packet switching.

In addition, the Commission should define DSL equipment, including the DSLAM, as an unbundled network element separate from packet switching. DSL equipment performs many

functions unrelated to packet switching.

The Commission should prohibit ILECs from imposing charges on CLECs to condition loops for DSL that are not based on forward looking costing and pricing principles. There have been industry loop design standards in place for twenty years that should have yielded loop plant capable of providing DSL service. CLECs should not be required to pay for plant upgrades that the ILECs should have been performing over the past two decades.

The Commission should also require the unbundling of OS/DA databases pursuant to section 251(c)(3) of the 1996 Act. As the legacy local monopoly providers, ILECs have unique access to these data and should be required to make the bulk listings available as UNEs, rather than requiring CLECs to pay for services on a per database dip basis. The Commission also should require ILECs to provide CLECs all relevant data on remote terminating points (vaults, pedestals, etc.) and other facilities needed to make subloop unbundling operational.

The Commission should modify the exception it has carved out for the unbundled local switching element, limiting the exception to retail customers with DS-1 service or greater. The current four line exception has not market basis and will create an administrative nightmare.

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	
Local Competition Provisions	)	CC Docket No. 96-98
of the Telecommunications Act of 1996	)	
	)	

Petition of MCI WorldCom for Reconsideration

MCI WORLDCOM, Inc. ("MCI WorldCom"), by its attorneys, hereby files this petition for reconsideration of the Third Report and Order and Fourth Further Notice of Proposed Rulemaking ("Order"),[1] issued by the Commission on November 5, 1999 in the above-captioned proceeding. MCI WorldCom urges the Commission to reconsider several of its conclusions foreclosing requesting carriers in general, and competitive local exchange carriers ("CLECs") in particular, from utilizing incumbent local exchange carrier ("ILEC") network capabilities as unbundled network elements ("UNEs") pursuant to sections 251(c)(3) and 252(d)(2) of the Telecommunications Act of 1996 ("1996 Act").[2]

I. Background

In the Order, the Commission issued rules responding to the Supreme Court's January 1999 decision directing it to reevaluate its application of the unbundling obligations of section 251 of the

---

[1] In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238, released Nov. 5, 1999.

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151 et seq.

1996 Act. Those rules interpret the "necessary" and "impair" standards of section 251(d)(2) of the 1996 Act and apply those standards and other criteria to identify and define particular network elements that ILECs must provide to requesting carriers on an unbundled basis. MCI WorldCom believes that, while overall, the Commission did a commendable job attempting to define and apply the "necessary" and "impair" standards, the Order contains some significant misapplications of law and policy. In particular, the Commission should reconsider certain decisions that will deter rather than foster competition with respect to advanced services.

II. The Commission should reconsider its decision not to require ILECs to provide unbundled packet switching and DSLAMs except in limited circumstances.

In the Order, the Commission concluded that in the residential and small business segments, CLECs are impaired in their ability to offer advanced services without access to ILEC packet switching facilities.[3] The Commission nonetheless chose not to require ILECs to unbundle packet switching (defined to include the DSLAM) except in limited circumstances. The Commission justified this decision based on its "overriding objective ... to ensure that advanced services are deployed on a timely basis to all Americans so that consumers across America have the full benefits of the 'Information Age.'"[4] Relying on ILEC claims that it found to be unsupported on the record,[5] the Commission concluded that if ILECs were required to make their DSLAMs and packet switching available on an unbundled basis, the risk that the ILECs' incentive to deploy advanced services might

---

[3] Order at paragraph 309.

[4] Order at paragraph 317.

[5] See footnote 618 in the Order, but see paragraph 315, which states "events in the marketplace suggests that other factors may be driving incumbent LECs to invest in xDSL technologies, notwithstanding the economic theory."

conceivably be lessened and ubiquitous deployment threatened outweighed the impairment of CLECs' ability to provide advanced services that the Commission determined on the record would occur. In reaching this decision, the Commission relied on nonstatutory factors it did not even discuss.

The Commission should reconsider this conclusion because it is unsound public policy and will deter the development of competitive markets for advanced services without advancing any other policy interest. Of equal importance, it also is an unlawful conclusion, unsupported by record evidence, and contradicting both the particular requirements of section 251(d)(2)(B) of the 1996 Act and the larger purposes of the statute.

A. The Rule is unsound public policy because not making unbundled packet switching available will impair the ability of CLECs to offer advanced services but will not impede ILEC deployment of advanced facilities and services.

The Commission correctly concluded that "competitors are impaired in their ability to offer advanced services without access to incumbent LEC facilities [packet switching, defined to include DSLAMs]."[6] In reaching this conclusion the Commission found, based on substantial record evidence, that without access to these ILEC facilities, CLECs wishing to offer advanced services would be required to suffer the costs and delays inherent in collocation. The Commission found that these costs and delays make the absence of ILEC packet switching every bit as impairing as the absence of circuit switches.[7] It therefore concluded that lack of access to packet switching "materially diminishes a requesting carrier's ability to provide the services it seeks to offer."[8]

Nevertheless, having reached this conclusion, the Commission remarkably declined to require

---

[6] Order at paragraph 309.

[7] Order at paragraph 309.

[8] See Order at paragraph 51, defining "impairment."

ILECs to give requesting carriers access to unbundled packet switching. It concluded that it was unsure whether the policy goal of widespread deployment of advanced services might be furthered by a refusal to require unbundling. The Commission therefore concluded that the policy of "regulatory restraint" should trump the overarching premise of the Act that competition is the best means to ensure widespread deployment of reasonably priced telecommunications services, as well as the presumption in section 251(d)(2)(B) that network elements should be unbundled to avoid impairment of CLECs' ability to compete.

The Commission's refusal to unbundle packet switching places a vise on the one service entry vehicle most likely to allow new entrants to compete in the residential and small business markets — access to unbundled ILEC network elements necessary to compete in situations where network economies make the use of CLEC facilities uneconomic or otherwise impractical. As the Commission has stated:

> We continue to believe that one important purpose of the unbundling provisions of the Act is to permit competitive LECs to compete with the same economies as the incumbents, especially in the early stages of local competition, when their networks are limited in their reach, and their customer bases are necessarily small.[9]

For mass markets, where up-front costs impose impediments to entry in light of customer churn and other factors, and where major impediments to deployment of CLEC facilities and use of individual ILEC unbundled loops continue to exist, the most useful type of UNE combination will be a UNE-platform arrangement that minimizes up-front nonrecurring activities and charges. Denying competitors access to a single element, packet switching, imposes on those competitors the up-front costs associated with collocation – which the Commission expressly concluded in the Order will

---

[9] Order at paragraph 86, citing Local Competition First Report and Order, 11 FCC Rcd at 15528, 15531, 15624, paragraphs 56, 61, and 242.

impair competitors' ability to offer service.

While the impairment finding is sound and based on substantial record evidence, the Commission did not provide empirical evidence to support its contention that ILECs might potentially deploy advanced services less ubiquitously if required to lease unbundled DSLAMs and packet switching. To the contrary, it found that all evidence on the record showed that a decision to unbundle packet switching would not have that effect.[10] Even a cursory review of the deployment plans, service offering announcements, and speeches by ILEC executives over the past year shows that ILECs are widely and rapidly deploying DSLAMs and packet switching to enable them to offer both advanced data services and basic voice services.[11] The ILECs' existing customer base makes it easier, faster, and less costly for them to deploy DSLAMs for the residential and small business markets on a more ubiquitous basis than CLECs can. Moreover, these ILEC investment activities are market driven — the ILECs, themselves, claim they are lagging behind the cable companies in providing broadband access to end user customers[12] and the FCC has determined that the ILECs are

---

[10] See Order at paragraph 315 and footnotes 619 through 624.

[11] See, for example, the December 30, 1999 statement of SBC that it is "implementing an unprecedented $6 billion initiative, called 'Project Pronto' to transform the company into America's largest single broadband provider. SBC is moving to provide an estimated 77 million Americans — about 80 percent of its Ameritech, Nevada Bell, Pacific Bell, SNET and Southwestern Bell customers — with always-on, high-speed, voice, data, and video services via faster DSL services than it currently offers by the end of 2002. Ultimately, the company intends to make broadband services available to all of its customers." (at http://www.sbc.com/News_Center /Media_Kit/data.html). See also the Remarks of Solomon D. Trujillo, CEO of U S West, at the Technologic Partners Conference, March 8, 1999, ("Trujillo Speech) stating "We've gone from being able to reach 30% of customers served out of DSL-equipped offices to 50%....Over the last year we have deployed DSL in 40 cities and 14% of our central offices." (at http://www.uswest.com:80/about/speeches/030899.html at 8 and 9).

[12] See Order at footnote 586, citing ILEC comments and reply comments in this proceeding. In particular, see the discussion in UNE Fact Report, submitted with the comments of the United States Telephone Association, and prepared for Ameritech, Bell Atlantic, BellSouth,

responding to competitive market pressure to deploy that capability before the cable companies can exploit "first mover" market advantages. According to a recent Staff Report to Chairman Kennard:

> The ILECs' aggressive deployment of DSL can be attributed in large part to the deployment of cable modem service. Although the ILECs have possessed DSL technology since the late 1980s, they did not offer the service, for concern that it would negatively impact their other lines of businesses. The deployment of cable modem service, however, spurred the ILECs to offer DSL or risk losing potential subscribers to cable. In various communities where cable modem service becomes available, the ILECs would soon deploy DSL service that was comparable in price and performance to the cable modem offering.[13]

This market reality completely undermines the only substantive argument that the Commission made to override its impairment finding. In the Order, the Commission stated, in support of its determination that ILECs should not have to unbundle packet switching and DSLAMs:

> We note that investments in facilities used to provide service to nascent markets are inherently more risky than investments in well established markets. Customer demand for advanced services is also more difficult to predict accurately than is the demand for well established services, such as traditional plain old telephone service (POTS).[14]

This statement is wrong on at least two counts.

First, the comparison to the risk associated with more established markets is misplaced. It is irrelevant whether investments in facilities used for advanced services are more risky than

---

GTE, SBC, and U S West, at VI-4-VI-9.

[13] Broadband Today, A Staff Report to William E. Kennard, Chairman, Federal Communications Commission, October 1999 ("Broadband Today"), at 27; see also FCC Report in the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, released February 2, 1999, at paragraphs 42 and 47; Telecommunications at the Millennium: The Telecommunications Act Turns Four, Office of Plans and Policy, Federal Communications Commission, February 8, 2000, at 5 ("Cable companies' service offerings have spurred telephone companies (both incumbents and their competitors) to deploy Digital Subscriber Line (DSL) technologies to deliver broadband access over telephone lines").

[14] Order at paragraph 314.

investments in facilities used for POTS, or whether demand is more difficult to predict accurately for advanced services than for POTS. The proper question is whether it is more risky for an ILEC to invest in facilities for advanced services than not to undertake such an investment at all. All carriers recognize that the growth in the telecommunications market will be almost entirely in the high-speed data market, not in the voice market, and that cable will be a competitor in that market. Thus, there is far greater risk, from the perspective of the long term viability of an ILEC, not to invest in the DSL and packet switching technologies needed to provide advanced services than to undertake such investments.

Second, it is incorrect to presume that it is risky for the ILECs, with their huge share of the residential and small business markets, to invest in facilities needed to provide advanced services to their existing customer base. ADSL technology allows the ILECs to use their existing copper loop plant. The investments in DSLAMs and packet switches are relatively small for these ILECs, and their existing customer base increases their ability to achieve high market penetration for advanced services. (In contrast, CLECs face significant costs -- indeed, material impairment -- in seeking to install advanced services equipment in ILEC central offices and remote terminals.) While it is true that it is difficult to make accurate projections of the exact size and timing of demand for advanced services in each geographic location, the trend is quite apparent. It also is true that the longer an ILEC delays deploying DSL technology the greater the disadvantage it will face in the market against a "first to market" cable company. The danger to the ILEC of losing some revenues to a CLEC who uses the ILEC's unbundled DSLAM and packet switching is far less than the danger to the ILEC of losing revenues to cable companies that get into the market first.

At the same time, the Commission's goal of ubiquitous deployment of advanced services will

depend on the variety of creative service offerings end-user customers can receive from DSL. The Commission seems to believe this is most likely to occur if ILECs are allowed to maximize the profits generated from their investments in DSL technology by being the only service provider that can use those DSL facilities. But the history of ILEC behavior with respect to DSL deployment suggests otherwise. As stated previously, ILECs resisted DSL deployment where it might undermine profits from existing services and became active only where they faced competition from cable modems. Going forward, one can expect the lack of unbundling will stifle DSL deployment; the ILECs will continue to make strategic monopolistic decisions to restrict investment in order to limit supply and thereby maintain higher prices and monopoly profits, thus frustrating the Commission's goal of maximizing deployment of advanced capabilities. But in those markets where the ILECs do face cable modem competition, with market pressures to try to overcome cable modem "first to market" advantages, the best strategy would be to give multiple advanced service providers access to advanced capabilities at rates that are profitable for both incumbents and new entrants. DSL technology can best meet customer needs, and thus will be most widely used, if it is open to many competing providers. Particularly in rural areas, where there are only a limited number of potential customers to support DSL technology, the best way to maximize demand is to ensure wide service provider access to the DSL facilities.

Denying CLECs access to unbundled ILEC packet switching because of the alleged risk associated with DSL-related investments also fails to take into account the Commission's own pricing principles. The TELRIC methodology explicitly incorporates the costs associated with risk by using a risk-adjusted cost of capital. If the state commissions were to determine that there is substantial risk associated with ILEC DSLAM and packet switching investments, that risk would be factored

into the cost of capital calculation, and thus into the rates ILECs could charge CLECs for the DSLAM and packet switching UNE.

B. The Commission's decision not to unbundle packet switching, in the face of its own finding of material impairment, is contrary to the record evidence and legally indefensible

These policy considerations to one side, the Commission's rule also should be reconsidered because it is legally insupportable. The Commission found, and clearly stated, that "competitors are impaired in their ability to offer advanced services without access to incumbent LEC [packet switching] facilities."[15] Had unbundling concerned an element of voice telephony, the "impairment" analysis apparently would have ended there, and led to the conclusion that the element must be unbundled. In this instance, however, the Commission set aside the Congressionally mandated "impair" standard. Instead, it adopted a rule that it acknowledged would materially harm competition in the provision of advanced services, based solely on self-serving and false assertions by several Bell Companies that "their incentive to invest and innovate in new technologies" would be curtailed if they were required to unbundle packet switching.[16]

Although it concluded that all record evidence supported the view that ILECs would deploy DSL-based advanced services regardless of a decision to unbundle packet switching,[17] the Commission nevertheless declined to unbundle packet switching. Apparently, "regulatory restraint" compelled the Commission not to require unbundling.[18] This decision could hardly have been based

---

[15] Order at paragraph 309.

[16] Order at paragraph 314 and footnote 618.

[17] Id. at paragraph 315.

[18] Id. at paragraph 316.

on the non-statutory factors the Commission indicated it could consider in addition to "impairment" in making the decision whether or not to unbundle. In its analysis of packet switching, the Commission mentioned, but did not further discuss, two such factors: "whether unbundling will open local markets to competition and how access to a given network element will encourage the rapid introduction of local competition to the benefit of the greatest number of customers."[19] But consideration of these two factors here points in the same direction as the statutory "impair" analysis: towards the conclusion that packet switching should be unbundled.

In particular, the Commission's decision not to unbundle packet switching, by its own admission, will materially impair the rapid development of such competition from CLECs, while doing nothing to increase ILEC investment and competition with cable companies. Instead, the Commission merely secures a monopoly advantage for the ILEC. Again, the Commission's own findings contradict its policy decision; in its Line Sharing Order, the FCC found that residential and small business customers purchase advanced services from their ILEC, as opposed to all CLECs, by a pronounced 17 to 1 ratio.[20] This startling evidence of obvious market dominance by the ILECs is reflected nowhere in the FCC's reasoning.

Nor could consideration of any of the other extra-statutory factors identified in the Order – reduced regulation, certainty in the market, and administrative practicality – lead the Commission to decline to unbundle packet switching. Those factors, apart from the interests in including rapid introduction of competition in all markets and promotion of competition discussed above, were never

---

[19] Id. at paragraph 309.

[20] Line Sharing Order at footnote 61.

even mentioned as part of the Commission's decision not to unbundle packet switching.[21] But if they had been, they too would lead to the conclusion that packet switching should be unbundled.[22] In sum, there is literally nothing in the Commission's Order that supports its decision not to unbundle packet switching.

The "impair" analysis that the Commission is required to make directly advances the principal purpose of the statute — to promote competition in all telecommunications markets. For that reason, when the statute calls for the Commission to consider "impairment" "at a minimum," the Commission may well decide to take the pro-competitive step of unbundling elements even in the absence of impairment. But it is difficult to imagine a situation in which it would be consistent with the larger purposes of the statute to refuse to unbundle an element once the Commission has concluded that competitors' ability to compete would be materially diminished without access to the element.

Whether or not such a refusal to unbundle could ever be justified under the statute, it is surely not justified here. At the least, a lawful Commission decision to refuse to unbundle an element whose absence materially diminishes competitive prospects would have to be based on the most powerful

---

[21] See, for example, the Order at paragraphs 110-16.

[22] Thus the Commission indicated it would consider the goal of reduced regulation only when "alternatives to the incumbent LECs' network elements become available in the future." Order at paragraph 113. But here the Commission found that the costs of collocation made ILEC packet switching unavailable as a practical matter to serve residential and small business markets. The Commission also indicated it would consider certainty in the market, to assure that new entrants face "uniformity and predictability" so they can "develop and implement national and regional business plans" and "attract the investment capital they need." Order at paragraph 114. Telling new entrants "no" obviously is not the kind of predictability the Commission was describing in its Order. Finally, the Commission indicated it would consider whether the rule it was considering was "administratively practical to apply." Order at paragraph 116. Once again, though it is no doubt easy to apply a near-blanket prohibition, the Commission never suggested that administrative difficulty in unbundling packet switching would be insurmountable, so this factor as well lends no support to its decision to refuse to do so.

evidence of the likelihood of substantial harm to some other important statutory interest. But here, to reiterate, the only evidence the Commission considered powerfully supported the conclusion that no harm to interest in the full deployment of DSL-based services would follow if the Commission unbundled packet switching.

Unexplained fears that the Commission might err in evaluating the record evidence simply are not nearly enough to support a refusal to give controlling weight to the Commission's judgments that lack of unbundling would materially impair CLECs' ability to deploy advanced services, and that unbundling would promote competition for advanced services. The Commission has no authority to take an action which, in sum total, it acknowledges undermines a statutory interest and fails to advance a non-statutory "factor."[23] Having concluded that CLEC competitiveness is impaired without access to packet switching and finding no evidence on the record suggesting that any other factor warranted denying such access, the Commission had no choice but to unbundle packet switching. Its refusal to do so is even more indefensible when, as here, the statutory requirement the Commission chooses to undermine — that competitors not be "impaired" in their ability to offer competing services — is the only express requirement in the statute. In sum, the Commission has improperly decided to allow nothing to trump something.

---

[23] The two cases cited by the Commission hardly support its action here. See Central Vermont Railroad v. ICC, 711 F.2d 331, 335 (D.C. Cir. 1983) and Time Warner Entertainment Co. v. FCC, 56 F.3d 151, 175 (D.C. Cir. 1995). In both cases the court ruled that any agency required to consider a list of factors must "reach 'an express and considered conclusion' about the bearing of [each factor]," though it need not give "any specific weight" to any one factor. Central Vermont 711 F.2d at 335, 56 F.3d at 175. Here the Commission's "express and considered conclusion" was that CLECs would be impaired without access to packet switching, and that the ILECs' interest in deploying DSL-based services was strong enough to survive whatever disincentives might as a theoretical matter exist as a result of the unbundling obligation. Whatever factors led the FCC to deny access in this circumstance was neither "express" nor "considered."

III The Commission should define DSL equipment, including the DSLAM, as an unbundled network element separate from packet switching.

In the Order, the Commission incorrectly concluded that the DSLAM is "a component of the packet switching functionality," and thus is "included in our definition of packet switching...."[24] However, a DSLAM serves a number of different functions unrelated to packet switching. Among other things, the Commission recognized that the DSLAM typically houses the splitters necessary to separate the voice and data signals that are transmitted over different frequencies on the same copper loops when passband DSL devices are being used. No splitter is required when baseband DSL is deployed because no frequencies are reserved for voice signals. The separated data signals from many customers are combined in the DSLAM — hence the name DSL access multiplexer.

The DSLAM must be located at the network end of the copper loop serving each customer. About 75 percent of the time today, the loop will be copper all the way from the customer's premises to the serving central office. For the remaining loops, the DSLAM may be located at a remote terminal or even at the customer's premises (particularly when the DSL serves multi-tenant buildings or campuses). In either case, the output of the DSLAM must be transported to one or more packet switches. As GTE explained in its interstate DSL tariff,[25] it plans to use centrally located packet switches to receive digital signals from numerous DSLAMs that will be scattered throughout its service area. Thus, some type of transmission capability will be required (1) between remote terminals and the host central offices, (2) within the local central office, and often (3) between central offices. This transport is not part of the combined DSLAM/packet switch network element the

---

[24] Order at paragraph 303.

[25] GTE Telephone Operating Cos., GTOC Tariff No. 1, GTOC-Transmittal No. 1148, Memorandum Opinion and Order, CC Docket No. 98-79, released October 30, 1998, at paragraph 8.

Commission defined, yet it is an essential component of a complete DSL service. The situation becomes even more complicated as newer DSLAMs incorporate the ability to "multi-host," meaning they can create separate output data streams directed toward different packet switches. These separate data streams require separate transmission paths and most likely will not terminate in the same central office. The Commission definition and determination about packet switching fails to address the need for intermediate transmission facilities. Yet correcting for this while maintaining the Commission's current definitional approach would lead to a potential administrative nightmare, as one network element — transport — would have to be included in the definition of another element. Further, since multiple packet switches may be associated with the output of one DSLAM or multiple DSLAMs may be routed to the same packet switch, it would seem reasonable to treat the two elements separately, just as the Commission does not consider digital loop carrier to be part of a circuit switch.

Further, the logic in the Order is based at least implicitly on the assumption that the only use for DSL is to gain broadband access to the Internet. This indeed is one widely discussed application, but the Commission itself has found that xDSL technology is used to support a variety of applications.[26] The telephone industry has been using some versions of DSL for nearly a decade to replace T-1 transmission technology in local loops. T-1 signals often are incompatible with other signals in loop cables and require costly electronics between the customer and the central office. DSL eliminates these problems. DSL signals in these applications usually do not pass through either a DSLAM or a packet switch. Rather, DSL simply provides a different transmission technology over

---

[26] See Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, et al., Order on Remand, released Dec. 23, 1999, at paragraph 16, footnote 39.

which to pass DS-1 signals. The DS-1 signals may transport voice or data information on switched or dedicated circuits. Again, the DSL network element should not be combined with packet switching.

IV. The Commission should prohibit ILECs from imposing charges on CLECs to condition loops for DSL that are not based on forward-looking costing and pricing principles.

In the Order, the Commission chose to permit ILECs to charge non-forward looking cost-based rates for conditioning loops,[27] even as it conceded that:

> the charges incumbent LECs impose to condition loops represent sunk costs to the competitive LEC, and that these costs may constitute a barrier to offering xDSL services. We also recognize that incumbent LECs may have an incentive to inflate the charge for line conditioning by including additional common and overhead costs, as well as profits.[28]

The Commission further conceded that "networks built today normally should not require voice-transmission enhancing devices on loops of 18,000 feet or shorter,"[29] citing industry source books.

The text of the Order gives guidance to the states "to ensure that the cost incumbents impose on competitors for line conditioning are in compliance with our pricing rules for nonrecurring charges."[30] The Rules themselves instruct ILECs to "recover the cost of line conditioning from the requesting telecommunications carrier in accordance with the Commission's forward-looking pricing principles promulgated pursuant to section 252(d)(1) of the Act,"[31] as well as "in compliance with

---

[27] Order at paragraph 193.

[28] Order at paragraph 194.

[29] Order at paragraph 193 and footnote 367.

[30] Order at paragraph 194.

[31] Rule 51.319(a)(3)(B).

rules governing nonrecurring costs in § 51.507(e)."[32]

Since efficient network construction today would not include voice-transmission enhancing devices that interfere with the provision of DSL-based services, the Commission's decision to allow ILECs to impose charges to recover all loop conditioning costs is inconsistent with its forward-looking pricing principles.[33] Moreover, the industry-developed design standards that prohibit the use of such devices in loops shorter than 18,000 feet have been in effect for many years. According to a telecommunications consultant with 24 years of experience with NYNEX, primarily in outside plant engineering and construction:

> ...all loops since 1980 should have been designed to the *CSA* [Carrier Serving Area] concept that would support sought-after digital services. All loops since 1972 should have at least been designed under the *Serving Area Concept*, in which all distribution cable, within an entire *Distribution Area*, has the same transmission characteristics (all loaded or all non-loaded), all of the same copper gauge cable, and with no bridged tap. Therefore, correctly designed outside plant for the past 27 years should present little problem to CLECs applying for xDSL service loops. Loops older than 27 years are far beyond their useful service lives and depreciation lives.[34]

Thus, it is ludicrous to suggest that requiring ILECs to provide DSL-capable loops imposes on them a new burden for upgrading their network that has not been a part of normal good business practices for many years. More generically, the problem is not that there are load coils on particular loops that

---

[32] Rule 51.319(a)(3)(C).

[33] See, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, First Report and Order ("First Report and Order"), released August 8, 1996, at paragraph 685.

[34] Direct Testimony of John C. Donovan, on behalf of DIECA Communications, Inc. d/b/a COVAD Communications Company, Before the Missouri Public Service Commission, In the Matter of the Petition of DIECA Communications, Inc. d/b/a COVAD Communications Company for Arbitration of Interconnection Rates, Terms, Conditions, and Related Arrangements with Southwestern Bell Telephone Company, Case No. TO-2000-322, January 7, 2000, at p. 13.

must be removed for customers to be able to receive DSL service, but rather that the entire ILEC loop plant should long ago have been redesigned and upgraded to meet loop standards that are now twenty years old.

The Commission therefore should reconsider its decision and not allow ILECs to charge CLECs for conditioning loops that are shorter than 18,000 feet. More generally, the Commission should rule that ILECs cannot charge for conditioning any lines that must be conditioned because they do not meet the industry-developed design standards. After all, these standards were developed primarily by the ILECs.

Most loops will not require conditioning and for these, of course, there should not be any line conditioning charge. Those that do require conditioning do not meet long-established industry standards and for these, as well, there should be no line conditioning charge. Indeed, there should not be any loops that meet CSA standards but cannot be used to provide ADSL services without conditioning. But if there are any such loops, which would be very few in number, ILECs could be allowed to impose a forward looking cost-based nonrecurring conditioning charge — if the conditioning costs have not already been included in recurring charges. In the Order, the Commission deferred to the states to ensure that the costs incumbents impose on competitors for line conditioning are in compliance with its pricing rules for nonrecurring costs.[35] For those situations, MCI WorldCom urges the Commission to establish a rule requiring the states to follow forward looking network design, costing, and pricing principles when setting rates for both recurring and nonrecurring activities.

---

[35] Order at paragraph 194.

V. The Commission should require the unbundling of OS/DA databases, pursuant to section 251(c)(3) of the 1996 Act.

The Commission apparently has declined to require the unbundling of Operator Services and Directory Assistance ("OS/DA") databases, even though in the Order's Executive Summary[36] the Commission explicitly includes OS/DA databases in the list of call-related databases to which ILECs must offer requesting carriers unbundled access as network elements. Thus, there is no explicit reference to or discussion of OS/DA databases in the call-related databases section in the Order or in the Rules. Nor is there any discussion of whether CLECs would be impaired in their ability to provide telecommunications services without access to OS/DA databases in the OS/DA section of the Order; that section focuses on access to OS/DA services, not on access to OS/DA databases. The only reference to OS/DA databases in the text of the Order is in paragraph 441, where the Commission states "We note that nondiscriminatory access to the incumbent's underlying databases used in the provision of OS/DA is required under section 251(b)(3) of the 1996 Act."

The failure to order the unbundling of the OS/DA databases is an error that the Commission should correct. The obligation of all local exchange carriers under section 251(b)(3) to provide nondiscriminatory access is less stringent than the obligation of incumbent local exchange carriers under sections 251(c)(3) and 252(d)(1) to provide access to unbundled network elements at cost-based rates. In its comments and reply comments,[37] MCI WorldCom explained how CLECs would be impaired in their ability to provide telecommunications services if denied access to ILEC OS/DA databases under section 251(c)(3), but the Commission failed to address that issue in its Order. As

---

[36] Order at p. 13

[37] See Comments of MCI WorldCom at pp. 74-75 and attached declaration of Stuart H. Miller at paragraphs 6-11. See also Reply Comments of MCI WorldCom at pp. 60-62.

explained in those comments, where CLECs are using their own switching, they also can provide their own OS/DA platform if they have the same access to the bulk listings as the ILECs enjoy. Providing CLECs access to the bulk listings allows them to expand their facilities and curtail their dependence on individual database dips into ILEC databases.

The ILECs, as the historic monopoly providers of local service, have the only unimpeded access to the customer information needed for OS/DA databases for more than 96 percent of all customers.[38] Leaving pricing of those databases to the discretion of the ILECs will substantially harm consumers by unreasonably raising the costs of competitors or otherwise impeding competitors: either CLECs will have to accede to the ILECs' artificially inflated prices, or CLECs will be forced to use alternative sources of data that are not as up-to-date, resulting in less accurate information about telephone numbers or whether the customer's telephone number is listed or published.

ILECs already are taking advantage of this situation to raise CLEC costs. For example, Southwestern Bell Telephone Company of Texas ("SWBT") is refusing to make bulk listings available to MCI WorldCom as a UNE and instead is charging "market based" rates (on a usage charge or no usage charge basis).[39]

The Commission therefore should modify Rule 51.319(e)(2)(A) and order the unbundling of OS/DA databases.

---

[38] In the Matters of Bell Operating Companies Petitions for Forbearance from the Application The Commission's Bell South National DA Forbearance Order states: "We agree with MCI that BellSouth obtained directory listings from other LECs for use in its directory assistance services solely because of its dominant position in the provision of local exchange services throughout its region." (at paragraph 81) and "...based on the record before us, we conclude that these competitive advantages stem from BellSouth's dominant position of local exchange services in the BellSouth region." (at paragraph 82).

[39] See electronic mail message, dated December 10, 1999, from Karen M. Moore of SWBT to Stuart H. Miller of MCI WorldCom, attached to this Petition as Attachment A.

VI The Commission should modify the exception it has carved out for the unbundled local switching element, limiting that exception to retail customers with DS-1 service or higher.

In the Order, the Commission exempts ILECs from providing unbundled local switching to requesting carriers when the following four criteria are met: (1) the retail customer is located in one of the 50 largest MSAs; (2) the retail customer is located in one of the dense areas in those MSAs, using the Commission's Special Access Zones 1 as a proxy for such density; (3) he retail customer has four or more access lines; and (4) the ILEC has made extended link (loop-multiplexing-transport) available to requesting carriers as a combined element.

These exception criteria, as a group, are meant to embody a policy judgment that, denied access to ILEC switching, CLECs would not be impaired in their ability to offer telecommunications services to some small group of business customers in dense urban areas. Even if one accepts the generic judgment that CLECs can serve certain customers without access to ILEC switching, however, one of the criteria — that the retail customer has four or more access lines — creates a boundary that is both irrational and unworkable. Its use would create an administrative nightmare that would undermine the ability of CLECs to serve small business customers. MCI WorldCom also does not believe that the FCC Special Access Zones 1 represent an accurate proxy of those areas where density is sufficient to support multiple CLEC switches.[40]

---

[40] Analysis of the proper exception boundary, in terms of the number of customer access lines or the definition of dense geographic areas, cannot be performed independently of the requirement that ILECs provide extended link. Without access to extended link, there can be no exceptions to the requirement that ILECs provide unbundled switching. In fact, CLECs would be far more impaired in their ability to offer telecommunications services in the absence of extended link than in the absence of unbundled switching.

As MCI WorldCom has explained in its comments and ex parte submissions,[41] in some situations even where MCI WorldCom has deployed a switch it is not feasible to serve all customers from that switch, primarily because of the inability of the ILEC to provision mass market levels of unbundled loops accurately and in a timely fashion. As one moves from a mass market situation to a business market situation, the complexity of the services provided require, and the level of revenues generated justify, serving customers with assigned sales and support teams.[42] These teams aid in the critical coordination process needed for hot cutovers and it becomes feasible to provision unbundled loops while using our own switching. It is not possible, however, to define a specific number of access lines above which it becomes feasible to self-provision switching. At the same time, if the Commission is to set out an exception, it is essential that the exception be clear cut and easy to administer.

In order for MCI WorldCom or any other CLEC to serve a market segment or an individual customer, it must have some certainty about the on-going source of essential inputs. Although MCI WorldCom and other competitive entrants do not know how fast total demand for their services, or the demand of individual customers, will grow in individual markets, if access to input sources are relatively predictable and not subject to strategic ILEC activity or unnecessary regulatory perturbations, they can make projections and plan accordingly, succeeding or failing based on the accuracy of their projections and their ability to meet their sales targets. If, on the other hand, MCI

---

[41] See Comments of MCI WorldCom at pp. 53-56 and Reply Comments of MCI WorldCom at pp. 51-55 and attached declarations.

[42] Although MCI WorldCom does not have a hard and fast rule, typically customers with monthly accounts of $1,000 or more will be served by assigned support teams in our Business Markets organization, while customers with smaller accounts will be served by our Mass Markets organization, which does not assign specific staff to specific customers. Not infrequently, that informal revenue cutoff coincides with a customer demanding DS-1 level of service.

WorldCom's access to essential inputs is subject to ILEC- or regulatory-created vagaries, then the ability to serve the affected market will be impaired. The danger of the latter is extremely high under the three vs. four line criterion in the switching exception. It is not easy to predict the performance — and thus likely access line needs — of individual small businesses, which are subject to frequent growth spurts or contractions that can and do result in expansions from three to more than three lines or contractions from more than three back to three or fewer lines. Also, many small businesses are seasonal, with tourist season or holiday season peaks that, while predictable, make any three vs. four line cut-off a logistical and administrative nightmare. Equally important, each of these uncertainties will play into the hands of the ILECs, who will have every incentive to disrupt our access to their unbundled switching. Thus conditioning access to unbundled switching on a three vs. four line boundary introduces unacceptable levels of uncertainty for CLECs and will undermine their ability to serve small businesses.

There is an administratively much more stable exception boundary available that will better meet the criteria set out in the Commission order — DS-1 level service. Although customers frequently increase or decrease their number of circuits, they are less likely to revert to DS-0 service once they install DS-1s. By using DS-1 service as the exception boundary, there also is far less opportunity for ILECs to deny CLECs access to unbundled switching by disputing the line count. Moreover, although DS-1 service technically can provide 24 voice grade circuits, as a practical matter under current pricing customers typically shift to DS-1 service when they need about eight access lines. And this cross-over point is likely to decline as rates become more cost-based as the forward-looking costs of a DS-1 are only about three times that of a DS-0.[43]

---

[43] See, for example, HAI Model, Version 5.0, filed December 11, 1997, in CC Docket No. 96-45, under cover letter from Richard N. Clarke, AT&T, to Magalie Roman Salas,

In addition, employing DS-1 as the exception boundary allows the Commission to define the switching UNE in terms of a DS-1 vs. a DS-0 switch port, while the current definition is specific to customer usage.

For all of these reasons, MCI WorldCom petitions the Commission to reconsider rule 51.319(c)(1)(B) and replace ""with four or more voice grade (DS0) equivalents or lines" with "with DS-1 level service or greater."

With respect to the proxy for dense geographic areas within an MSA, MCI WorldCom has made an ex parte filing explaining why the Commission's Special Access Pricing Zones did not represent good proxies.[44] Other parties have suggested alternative proxies, such as areas served by wire centers where CLECs are porting numbers and there are multiple CLEC collocations, all of which have defects, but some of which may be preferable to Special Access Zones 1. MCI WorldCom will provide comment on any proposals that are formally filed in this proceeding.

VII The Commission should require ILECs to provide CLECs all relevant data on remote terminating points (vaults, pedestals, etc.) and other facilities needed to make subloop unbundling operational.

MCI WorldCom applauds the Commission's determination that ILECs must provide subloop unbundling, but such unbundling will be of limited use to CLECs if they do not have information on the location, capacity, capability, and space availability of those facilities needed to plan and

---

Secretary, Federal Communications Commission.

[44] See ex parte letter dated August 9, 1999, from Chuck Goldfarb, Director, Law and Public Policy, MCI WorldCom, to Larry Strickling, Chief, Common Carrier Bureau, Federal Communications Commission, at pp. 4-7.

implement interconnection with those facilities.

Subloop unbundling allows CLECs to efficiently use various ILEC segments of the "access link" to a customer. But CLECs cannot make assessments about the costs and benefits of using these subloops to offer a specific set of services to a specific geographic market without knowledge of where the various facilities are physically within a city (or within an area of the city, a community, or a neighborhood) and of the technology embedded in the various components of the loop plant. Without such information, there is great risk that CLECs will try to market services that cannot in fact be supported by the ILEC facilities.

To deal with the practical problems of subloop planning, implementation, and service turn-up, a CLEC needs geographic (location and distance) information about where distribution nodes (remote termination points such as vaults and pedestals) of all types are located and the technology used between the ILEC's central office and the various segments of the subloop (e.g., fiber, copper, etc.).

Some of the practical questions for which CLECs need information are: (1) where are the remote terminations located, (2) is the loop DLC or not (and what kind of DLC), (3) are dark fiber or dark wave lengths available to the remote terminating point, (4) how many lines are served from the remote terminating point, (5) and how do these relate to the physical location of customers? Information is needed to give CLECs the ability to identify and plan costs associated with all levels of service coverage, from 20,000-resident blocks to 100-resident blocks. To implement service for individual customers, information is needed down to the individual residential address.

The Commission should expand the Order and add rules to identify the specific obligations of the ILECs to provide all relevant data needed for CLECs operationally to interconnect with the ILEC network using subloop unbundling.

VIII. Conclusion

Wherefore, for the foregoing reasons, MCI WorldCom respectfully requests that the Commission reconsider its decision in this proceeding.

Respectfully submitted,
MCI WorldCom, Inc,

By: _____

Chuck Goldfarb
Richard Whitt
Cristin Flynn
MCI WorldCom, Inc.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 887-2199

Of Counsel:

Mark L Schneider
Jenner & Block
601 13th Street, N.W.
Washington, D.C. 20005
(202) 639-6005

Anthony C. Epstein
Steptoe & Johnson, LLP
1330 Connecticut Ave., NW
Washington, D.C. 20036
(202) 429-8065

February 17, 2000

CERTIFICATE OF SERVICE

I, Mark D. Schneider, hereby certify that I have this 17th day of February, 2000, caused a true copy of Motion for Reconsideration of MCI WORLDCOM, Inc. to be served on the parties listed below via first class mail postage pre-paid:

Lee Selwyn
Economics and Technology, Inc.
One Washington Mall
Boston, MA 02108-2617

James S. Blaszak
Colleen Boothby
Andrew Brown
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, N.W., Suite 900
Washington, D.C. 20036

Jonathan Askin
Vice President – Law
The Association for Local Tele. Services
888 17th Street, N.W., Suite 900
Washington, D.C. 20006

Jonathan E. Canis
John J. Heitmann
Kelley, Drye & Warren LLP
1200 19th Street, N.W., 5th Floor
Washington, D.C. 20036

Ruth Milkman
The Lawler Group, LLC
1909 K Street, N.W, Suite 820
Washington, D.C. 20006

Robert W. McCausland
Vice President, Regulatory and
Interconnection
Allegiance Telecom, Inc.
1950 Stemmons Freeway
Suite 3026
Dallas, TX 75207-3118

Mary C. Albert
Regulatory Counsel
Allegiance Telecom, Inc.
1100 15th Street, N.W., Suite 200
Washington, D.C. 20005

John T. Lenahan
Christopher M. Heimann
Gary L. Phillips
Larry A. Peck
Michael S. Pabian
Counsel for Ameritech
1401 H Street, N.W., Suite 1020
Washington, D.C. 20005

David W. Carpenter
Mark E. Haddad
Peter D. Keisler
Michael J. Hunseder
Scott M. Bohannon
Rudolph M. Kammerer
Sidley & Austin
1722 I Street, N.W.
Washington, D.C. 20006

Karlyn D. Stanley
Cole, Raywid & Braverman, LLP
1919 Pennsylvania Ave., N.W.
Suite 200
Washington, D.C. 20006

Mark C. Rosenblum
Roy E. Hoffinger
Elaine McHale
Stephen C. Garavito
Richard H. Rubin
AT&T Corp.
295 North Maple Avenue
Basking Ridge, NJ 07920

Lourdes Lucas, Esquire
Centennial Cellular Corp.
Director of Legal Affairs
1305 Campus Parkway
Neptune, NJ 07753

Mark J. Burzych
Foster, Swift, Collins & Smith, PC
313 South Washington Square
Lansing, MI 48933-2193

Susan W. Smith
Director – External Affairs
Centurytel Wireless, Inc.
3305 Summerhill Road
No. 4 Summer Place

Kenneth E. Hardman
Moir & Hardman
1828 L Street, N.W., Suite 901
Washington, D.C. 20036-5104

Peter Arth, Jr.
Lionel Wilson
Ellen S. Levine
505 Van Ness Ave.
San Francisco, CA 94102

Rachel J. Rothstein
Brent M. Olson
Cable & Wireless USA, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Danny E. Adams
Rebekah J. Kinnett
Brian D. Hughes
Kelley Drye & Warren LLP
1200 19th St., N.W., Suite 500
Washington, D.C. 20036

M. Robert Sutherland
Jonathan B. Banks
BellSouth Corporation
Suite 1800
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Michael E. Glover
James G. Pachulski
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Dana Frix
Patrick J. Donovan
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Douglas E. Hart
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

Kenneth E. Hardman
MOIR & Hardman
1828 L Street, N.W., Suite 901
Washington, D.C. 20036-5104

Ronald Binz, President
Debra Berlyn, Executive Director
Competition Policy Institute
1156 15th St., N.W., Suite 520
Washington, D.C. 20005

Carol Ann Bischoff
Executive Vice President
And General Counsel
Competitive Telecommunications Assoc.
1900 M Street, N.W., Suite 800
Washington, D.C. 20036

Robert J. Aamoth
Steven A. Augustino
Melissa M. Smith
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Donald W. Downes, Chairman
Glenn Arthur, Vice Chairman
Jack R. Goldberg, Comissioner
John W. Betkoski, III, Commissioner
Linda Kelley Arnold, Commissioner
Connecticut Department of
Public Utility Control
Ten Franklin Square
New Britain, CT 06051

Eric J. Branfman
Michael R. Romano
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Alan G. Fishel
Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Thomas M. Koutsky
James D. Earl
Covad Communications Company
700 13th Street, N.W., Suite 950
Washington, D.C. 20005

Laura H. Phillips
J. G. Harrington
Barbara S. Esbin
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, D.C. 20036

Jonathan E. Canis
Edward A. Yorkgitis, Jr.
Michael B. Hazzard
Kelley Drye & Warren LLP
1200 Nineteenth Street, N.W., 5th Floor
Washington, D.C. 20036

Cynthia B. Miller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Richard Metzger
Vice President
Regulatory Affairs and Public Policy
Focal Communications Corporation
1120 Vermont Ave., N.W.
Washington, D.C. 20005

George N. Barclay
Associate General Counsel
Michael J. Ettner
Senior Assistant General Counsel
Personal Property Division
General Services Administration
1800 F Street, N.W., Room 4002
Washington, D.C. 20405

William P. Barr
M. Edward Whelan
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20026

Ward W. Wueste, Jr.
Thomas R. Parker
GTE Service Corporation
1255 Corporate Drive
Irving, Texas 75038

Steven G. Bradbury
Paul T. Cappuccio
Patrick F. Philbin
John P. Frantz
Kirkland & Ellis
655 Fifteenth Street, N.W.
Washington, D.C. 20005

Jeffrey S. Linder
Suzanne Yelen
Wiley, Rein & Fielding
1717 K Street, N.W.
Washington, D.C. 20006

Lawrence G. Malone
General Counsel
New York State Department
Of Public Service
3 Empire State Plaza
Albany, NY 12223

Rodney L. Joyce
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004

Kent F. Heyman, General Counsel
Scott A. Sarem, Assistant Vice President
President E. Heatter, Assistant Vice President
MGC Communications, Inc.
3301 N. Buffalo Drive
Las Vegas, NV 89129

Susan M. Eid, Vice President, Federal Regulations
Tina S. Pyle, Executive Director for Public Policy
Richard A. Karre, Senior Attorney
MediaOne Group, Inc.
1919 Pennsylvania Ave., N.W., Suite 610
Washington, D.C. 20006

David R. Conn
Vice President – Law and Regulatory Affairs
McLeodUSA Telecommunications Services, Inc.
McLeod USA Technology Park
6400 C Street SW
Cedar Rapids, IA 52406-3177

Glenn B. Manishin
Blumenfeld & Cohen – Technology Law Group
1615 M Street, N.W., Suite 700
Washington, D.C. 20036

James M. Tennant, President
Low Tech Designs, Inc.
1204 Saville Street
Georgetown, SC 29440

Michael Travieso
People's Counsel
Theresa V. Czarski
Assistant People's Counsel
Office of People's Counsel
6 St. Paul Street, Suite 2102
Baltimore, MD 21202

Philip F. McClelland
Joel H. Cheskis
Assistant Consumer Advocates
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Forum Place
Harrisburg, PA 17101-1923

David Bergmann
Assistant Consumer's Counsel
Ohio Consumer's Counsel
77 South High Street, 15th Floor
Columbus, OH 43266-0550

William Vallee, Jr.
Connecticut Office of Consumer Counsel
10 Franklin Square
New Britain, Connecticut 06051-2605

Diane C. Munns
General Counsel
Iowa Utilities Board
350 Maple Street
Des Moines, Iowa 50319

William H. Smith, Jr.
Federal and Legislative Programs Coordinator
Iowa Utilities Board
350 Maple Street
Des Moines, Iowa 50319

Myra Karegianes
General Counsel
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

Margot Smiley Humphrey
Koteen & Naftalin, L.L.P.
NRTA
1150 Connecticut Ave., N.W.
Suite 1000
Washington, D.C. 20036

L. Marie Guillory
Jill Cranfield
NTCA
4121 Wilson Blvd.
Tenth Floor
Arlington, VA 22203

Kathleen A. Kaercher
Stuart Polikoff
OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, D.C. 20036

Glen B. Manishin
Elise P. Kiely
Frank V. Paganelli
Lisa N. Anderson
Blumenfeld & Cohen – Technology Law Group
1615 M Street, N.W., Suite 700
Washington, D.C. 20036

Joseph A. Kahl
Director of Regulatory Affairs
RCN Telecom Services, Inc.
105 Carnegie Center
Princeton, NJ 08540

Andrew D. Lipman
James N. Moskowitz
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Genevieve Morelli
Senior Vice President, Government Affairs
Senior Associate General Counsel
Paul F. Gallant
Senior Policy Counsel, Government Affairs
Qwest Communications Corp.
4250 N. Fairfax Drive
Arlington, VA 22203

Linda L. Oliver
Jennifer A. Purvis
Yaron Dori
Hogan & Hartson, L.L.P.
555 13th St., N.W.
Washington, D.C. 20004

Randall B. Lowe
Julie A. Kaminski
Renee Roland Crittendon
J. Todd Metcalf
Piper & Marbury, L.L.P.
1200 Nineteenth Street, N.W.
Suite 700
Washington, D.C. 20036

Walter Steimel, Jr., Esq.
Marjorie K. Conner, Esq.
Edwin G. Kichline, Esq.
Hunton & Williams
1900 K Street, N.W.
Washington, D.C. 20006

Michael E. Katzenstein
Vice-President and General Counsel
OpTel, Inc.
1111 W. Mockingbird Lane
Dallas, TX 75247

W. Kenneth Ferree
Goldberg, Godles, Wiener & Wright
1229 Nineteenth Street, N.W.
Washington, D.C. 20036

Steven T. Nourse
Assistant Attorney General
Public Utilities Section
180 E. Broad St.
Columbus, OH 43215

Ruth Milkman
The Lawler Group, LLC
1909 K Street, N.W.
Suite 820
Washington, D.C. 20006

Steven Gorosh
Kevin Cameron
NorthPoint Communications, Inc.
222 Sutter Street, Suite 700
San Francisco, CA 94108

Daniel M. Waggoner
Robert S. Tanner
Davis Wright Tremaine LLP
1155 Connecticut Ave., N.W., Suite 700
Washington, D.C. 20036

R. Gerard Salemme
Senior Vice President, External Affairs
and Industry Relations
Daniel Gonzalez
Director, Regulatory Affairs
Nextlink Communications, Inc.
1730 Rhode Island Ave., N.W., Suite 1000
Washington, D.C. 20036

Scott Sawyer
Vice President, Regulatory
New England Voice & Data, LLC
222 Richmond Street, Suite 206
Providence, RI 02903

Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Rodney L. Joyce
J. Thomas Nolan
Shook, Hardy & Bacon
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004

Brad E. Mutschelknaus
Edward A. Yorkgitis, Jr.
Ross A. Buntrock
Michael B. Hazzard
Kelley Drye & Warren LLP
1200 Nineteenth Street, N.W., 5th Floor
Washington, D.C. 20036

Charles D. Gray, General Counsel
James B. Ramsay, Asst. General Counsel
National Association of Regulatory
Utility Commissioners
1100 Pennsylvania Ave., Suite 603
P.O. Box 684
Washington, D.C. 20044-0684

Michelle W. Cohen
Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Ave., N.W., 10th Floor
Washington, D.C. 20004

Lonn Beedy
Metro One Telecommunications, Inc.
8405 S.W. Nimbus Avenue
Beaverton, OR 97008-7159

Jonathan E. Canis
Michael B. Hazzard
Kelley Drye & Warren LLP
1200 Nineteenth Street, N.W.
Washington, D.C. 20036

Lisa B. Smith
Charles Goldfarb
MCI WorldCom, Inc.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

William P. Hunt, III
Regulatory Counsel
Level 3 Communications, Inc.
1450 Infinite Drive
Louisville, Colorado 80027

Russell M. Blau
Tamar E. Finn
Swidler Berlin Shereff Friedman,LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Patrick J. Donovan
James N. Moskowitz
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

William L. Willis
Deborah T. Eversole
Amy E. Dougherty
730 Schenkel Lane
P.O. Box 615
Frankfort, KY 40602

Robert M. Lynch
Roger K. Toppins
Michael J. Zpevak
Kathleen E. Palter
SBC Communications Inc.
One Bell Plaza, Room 3703
Dallas, Texas 75202

Michael K. Kellogg
Rachel E. Selinfreund
Kellogg, Huber, Hansen, Todd
& Evans, P.L.L.C.
1301 K Street, N.W., Suite 1000 West
Washington, D.C. 20005

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, D.C. 20036

Strategic Policy Research, Inc.
7979 Old Georgetown Road, Suite 700
Bethesda, MD 20814-2429

Charles C. Hunter
Catherine M. Hannan
Hunter Communications Law Group
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

Laurence E. Harris
David S. Turetsky
Terri B. Natoli
Carolyn K. Stup
Teligent, Inc., Suite 400
8065 Leesburg Pike
Vienna, VA 22182

Steven P. Goldman
Deborah M. Barrett
6322 South 3000 East
Salt Lake City, Utah 84121

Stephen J. Davis
Chief, Office of Policy Development
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

William T. Lake
William R. Richardson, Jr.
Samir Jain
David M. Sohn
Todd Zubler
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

Jeffrey L. Sheldon
General Counsel
1140 Connecticut Ave., N.W.
Suite 1140
Washington, D.C. 20036

Philip L. Verveer
Gunnar D. Haley
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st St., N.W.
Washington, D.C. 20036

Leonard J. Kennedy
Loretta J. Garcia
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John W. Hunter
Julie E. Rones
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert B. McKenna
U S West, Inc.
1020 19th Street, N.W.
Washington, D.C. 20036

David C. Farnsworth, Esq.
Vermont Public Service Board
Drawer 20
Montpelier, VT 05620-2701

Lowell Feldman, Chairman
Bill Magness, General Counsel
Waller Creek Communications, Inc.
1801 N. Lamar, Suite M
Austin, TX 78701

Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
William R. Gillis, Commissioner
Washington Utilities and
Transportation Commission
1300 South Evergreen Park Drive,
Southwest
Olympia, Washington 98504

Michael Weingarten
Monitor Group
2 Canal Park
Cambridge, MA 02141

Robert Berger
Russell Merbeth
Barry Ohlson
WinStar Communications, Inc.
1146 19th Street, N.W.
Suite 200
Washington, D.C. 20036

Russell M. Blau
William L. Fishman
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Honorable Harold Furchgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W. Room 8-A302
Wasington, D.C. 20554

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554 *The

The Honorable Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W. Room 8-B115
Washington, D.C. 20554

The Honorable Michael Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W. Room 8-A204
Washington, D.C. 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Lawrence Strickling
Chief Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Michelle Carey
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Janice Myles (w/diskette)
Policy and Program Planning Divison
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W. Room
Washington, D.C. 20554

Staci Pies
Federal Communications Commission
Common Carrier Bureau
445 12th Street, S.W.
Washington, D.C. 20554

International Transcriptions Service, Inc.
CY-B40000
445 12th Street, S.W.
Washington, D.C. 20554

Carolyn Mattan for Mark Schneider
Mark D. Schneider